

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
July 12, 2023**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 12:00 p.m. at the Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Pro-Tem Edie Tugman presided. Council members present included Todd Carter, Virginia Roseman, Dalton George and Becca Nenow. Town staff present included Town Manager Amy Davis, Town Clerk Nicole Harmon Church, Downtown Boone Development Coordinator Lane Moody, Public Works Director Todd Moody, Planning Director Jane Shook, Sustainability and Special Projects Coordinator George Santucci, Cultural Resources Director Mark Freed, and Police Chief Andy Le Beau. Town Attorney Allison Meade was also in attendance.

MOMENT OF SILENCE

PUBLIC COMMENT

Public comment was held open to allow for those who signed up to speak virtually time to arrive at Council Chambers to speak since the audio video equipment was not working.

TENTATIVE AGENDA ADOPTION

Upon a motion by Councilmember Carter, seconded by Councilmember George, Council voted unanimously to approve the agenda as presented and to leave the public comment period open.

ANNOUNCEMENTS

LIST OF BOARD VACANCIES

Mayor Pro-Tem Tugman announced the following vacancies:

BOARD OF ADJUSTMENT

One regular position, Three alternate positions

COMMUNITY APPEARANCE COMMISSION

Four regular positions, One student position

CULTURAL RESOURCES ADVISORY BOARD

One student position

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

One position

HISTORIC PRESERVATION COMMISSION

Two regular positions

HUMAN RELATIONS COMMISSION

One position

PLANNING COMMISSION

Two regular positions

SUSTAINABILITY COMMITTEE

Two regular positions

Councilmember Carter indicated that Human Relations Commission member Zannah Kukral stepped down, and that staff would need to advertise for the remainder of their term on the commission.

ADOPTION OF ITEMS ON CONSENT AGENDA

CONSIDERATION OF LICENSE AGREEMENT - BOONE VINTAGE MARKET

Upon presentation of the License Agreement between the Town of Boone and Davis Parker for the Boone Vintage Market at the Horn in the West property, Mayor Pro-Tem Tugman asked whether or not a security deposit was required given previous events held at this location and asked whether Cultural Resources Director Mark Freed had concerns with the applicant's ability to clean up after themselves. Director Freed answered that no security deposit required for such events and encouraged Council to adopt one. There was discussion about adding a cleaning deposit to such agreements going forward. Councilmember George made a motion to approve the proposed agreement as presented (without a security deposit), but that Council should look into a fee schedule in the future. Councilmember Carter seconded the motion, which passed unanimously.

COUNCIL MATTERS

TOWN MANAGER UPDATE

Town Manager Amy Davis welcomed new Public Works Director Todd Moody and indicated that staff planned to advertise the open grant writer position soon. Regarding sustainability, Manager Davis stated that staff had been working on addressing the invasive grass species growing along the Greenway Trail, and working with ASU on small compost waste options. She added that staff had attended a regional waste group meeting regarding single-use plastics and noted that staff would take delivery of the new Chevrolet Bolts soon. Manager Davis finished the sustainability update by announcing the second community climate action plan public input session on July 27th. Manager Davis then announced the ongoing summer concerts at the Jones House every Friday night, upcoming art exhibits inside the Jones House gallery, and Buskersfest and BooneBoo! Regarding Public Works and Utilities, she gave updates on the following: Asset Inventory Assessment (AIA) Grant: The Town of Boone with the assistance of the High Country Council of Governments made an application in September of 2022 for AIA grants which were approved during the State Water Infrastructure Authority Meeting on February 21st in the total amount of \$400,000. Staff received intent to fund notifications and are working to obtain scope and schedule approval from NCDENR-DWI. AMI Meter System: We are continuing to install the new type of water meter with 1,580 or 26% installed to date. Remote functionality reprogramming is currently underway. New meter installation will continue as funding allows.

CDBG-I ~ Deck Hill Water storage tank replacement: Bid and design package have been successfully submitted to the State for review and approval. Town staff is continuing purchase negotiations with the property owners. Water and Sewer Capital Improvements Plan

Phase One of the Capital Improvements plan is complete. Staff is working toward scope and schedule approval with NCDENR-DWI. Jimmy Smith WWTP - UV Treatment System replacement installation: Staff received four competitive bids through the informal process with Gilbert Engineering Company being the recommended contractor by our project designer, McGill Associates. Pending delivery of select materials, project construction is scheduled to begin in September. Stormwater Improvements: The Street Department has been busy upgrading and replacing storm drainage pipes and structures on numerous town streets including; Forest Hills Drive, Eastridge Drive, Keystone Drive, Tracy Circle, Dogwood Road, Blue Ridge Avenue, Meadowview Drive, Faculty Street, and Windy Drive. Pursuant to G. S. 160-499.4 Notice Prior to Construction: The Facilities Maintenance Division will begin the installation of a new sidewalk on the west side of Meadowview Drive from Greenway Road to Rogers Drive. This project will include new ADA-accessible curb ramps and approximately 100 feet of new stormwater infrastructure.

Manager Davis stated that she received an emailed letter from Watauga County representatives asking for financial support from the Town in the amount of \$67,900 for the new parking deck. Councilmember George indicated that it felt counterintuitive to the County's "new relationships" approach toward the Town to submit this request weeks after the County had announced the request to the media without having a prior conversation. It was his opinion that the return of parking spaces used by the County on Queen Street should be included in discussions of this matter, and stated that he was opposed to this request. The use of a thin brick pre-cast

material was discussed briefly before Mayor Pro-Tem Tugman said that she resented the double-edged presentation by the County to work with them on matters, then send this type of request. Councilmember Roseman wanted the Town to work with the County but asked for conversation between the two entities first. Councilmember George stated that he believed it was unfortunate that the County sent the initial request to the Watauga Democrat in June before sending it recently to the Town Manager. He found it reminiscent of the way they did with the Hunger and Health Coalition paving request. Councilmember George questioned how the Town Council was supposed to work with an entity that was not transparent. Mayor Pro-Tem Tugman indicated that she would like Manager Davis to address the County regarding this matter in correspondence and encourage better communication about issues before they appeared in the newspaper. Manager Davis reminded members that no provision for this request was made in the budget, which would come from the fund balance if approved. She also asked members to ask themselves, if the shoe were on the other foot, would the County help the Town? Councilmember Roseman stated that if the County had communicated its request in June when it was published in the newspaper, perhaps the Town could have made arrangements in the budget to support it. She added that she would like the newspaper article with the original request included in Manager Davis's correspondence to the County. Councilmember Carter stated that he felt the Town needed to be proactive in addressing this request so that it did not get blamed for parking or other issues in the future if the parking deck does not go through. The County's request to waive permit fees was discussed briefly, with Attorney Meade indicating that she was unaware of any legal basis to do so. Manager Davis stated that she would work with Attorney Meade and Communications Specialist Laney Pilkington on a letter to the County and a press release on the matter. She noted that this situation could likely impact parking revenue to the Town, with patrons utilizing the parking deck over on-street parking. Attorney Meade reminded Council that the Town of Boone previously proposed to work with the County on a parking structure. Councilmember George agreed and added that the County denied the request for assistance and expedited the demolition of the historic home located on the property in question. Councilmember Carter stated that he did not want to make decisions based on what had happened in the past. It was the consensus of Council that it was not in favor of supporting the County's request and directed Manager Davis to work with Attorney Meade and Communications Specialist Pilkington to craft a letter and press release before next week that would be released at the same time.

Manager Davis read the following statement (entered as received) from Kelly Mosenfelder into the record:

"I wish boone would embrace artist instead of treating them like they are a nuisance. Embracing artists and having an art district would be wonderful. Last week some woman told me that she drove hours to see all the artist she was told they were all over the streets. She was disappointed and when we told her they were moving us in front of the library she said no one will see or know we were there. The tourists like art and art culture. They will be disappointed. I have suggested that the town put on its website as a daily event where the artist will be allowed to vend. Unfortunately, it fell on deaf ears. It would be nice if the town worked with us instead of against us. Working against us is to say we can not set up in front of shops that allow us to unless you say so. This is wrong. Yet, it's fine for buskersfest and possibly first friday? What's the difference one day a month for art and culture for the town of Boone and only once a year? Who wants to live in a place like that?"

The atmosphere downtown will change when you remove artist. I know you think the post office is a good place, but most tourists don't know it exists and don't even walk down there. Why would they if there is nothing to see past the brunch spot on the corner.

If we do not do well in front of the post office then no artist will be downtown at all. Is that what you want? It feels to many of us that it is. This is an artist way of life and you are threatening many incomes in this town. Also, you will be losing free town ambassadors. One will be there to answer questions for the visitors anymore or recommend businesses.

Also, artists shouldn't have to compete with space with food vendors who directly do compete with downtown businesses.

Allowing food vendors better positioning than artist isn't right either. What's the difference between a food vendor and a person selling non handmade items? There isn't one. Both compete with downtown businesses.

This is my comment

How can I find out what the town council votes on?"

Pam Williamson of Boone read the following statement (entered as received):

"I want to express once again my STRONG objections to the revisions the Town Attorney is offered for Chapter 50 of the Town's ordinance (water and sewer extensions). Even with the attorney's newest revisions, (either her "Broad vision" or "Narrow vision"), the proposed changes, if approved, will open an unfortunate Pandora's box of inferior development throughout the County and at Town residents' expense.

As outlined by the attorney's revisions, specifically exempted from following our development ordinances and in exchange for our water resources, are the Town itself, the County, ASU, certain industrial developments, and (in her Broader version) rental housing projects that, according to the statutes she cited, require only 20% of the housing be offered to moderate or low income residents for as little as 15 years.

Why would we rewrite an entire ordinance section to allow developments outside our zoning jurisdiction access to our water to build without following our zoning regulations when all of us who live in or develop in Town are required to follow the regulations? Why would the Town afford itself the opportunity to forgo the very ordinance requirements it insists its citizens follow?

If the Town truly believes its development ordinances provide better, safer development that serves "the greater good," then why doesn't it require those ordinances be followed by everyone? Why doesn't the attorney include the requirement of at least a public hearing and public notice in her proposal for such development proposals? And if the Town believes in its ordinances, why don't low and moderate-income residents deserve quality, safer and desirable places to live just like the rest of us? Isn't that, too all a factor "for the greater good"?

*I find it interesting that the attorney's revisions (both the "Broad" and "Narrow" versions) state that "in its discretion, the Council may require documentation sufficient to meet the requirements for site-specific plan approval under the town's development ordinance projects." **Just ask yourself: Why isn't that a given as opposed to an option?***

Let's be clear: Should this proposal be approved, gone are inherent regulations on minimum setbacks, maximum building height and density, required traffic impact studies, and neighboring properties' notice and opportunity for public hearing. All for the sole benefit of a few specific well-heeled and/or political entities.

There have been developers (including the County) trying to find a way around the Town regulations ever since Boone built its new water intake and required annexation for access to its resource. Why is it there are those who do everything they can to avoid annexation into the town's zoning jurisdiction as required for water resources? If they have good reasons, why do they want to skirt the conditional zoning opportunity they are already afforded by ordinance for their unique projects?

***Let's face it.** There is only one reason: the County has no zoning for such projects, and the Town does. There are those who need or want the town's water resources, but they don't want to follow the town's building regulations because it costs more money, or it is inconvenient to do so. It's all about the money.*

The bottomline is that should these revisions be approved, this Town Council will ultimately be responsible and held accountable for the inferior and undesirable development that will inevitably occur--because once that water hookup is made, you can bet will have zero control over the development."

Ms. Williamson thanked Council for its time and apologized for having to leave the meeting.

A break was declared at 12:59 p.m. Council reconvened at 1:10 p.m.

BOONERANG REPORT

Cultural Resources Director Mark Freed showed Council a brief video recap of the 2023 Boonerang Music and Arts Festival. He reported that the festival cost approximately \$125,000-130,000, a lot of which went back into the local economy. Director Freed stated that last year, the festival brought in \$20,000 to assist local non-profit organizations and that the amount increased to \$60,000 this year. He added that \$6,500 would support the Watauga County Arts Council, between \$4-5,000 to Casting Bread Ministries, and \$3,000 to local art teachers. Director Freed indicated that next year's festival was mostly paid for with the revenue made from this year's festival. He reported that the feedback from vendors was positive across the board, though there was some confusion with tent tear-downs here and there. Director Freed stated that some vendors reportedly sold \$3-4,000 in goods, but most at least made their vending fee back in profit. Feedback from brick-and-mortar businesses was mixed, he said, with some indicating that sales were down even though foot traffic was up, and others had their best days of the year. Director Freed added that the DBDA had sent out a survey to its members and that ideas were already being generated for the 2024 festival. He stated that general feedback was positive and noted two safety events, and a couple of patrons were asked to leave by the Police Department and did so quietly. Director Freed stated that he believed things went more smoothly this year than the inaugural year, and reported no gaps in Town of Boone operations. He announced that the 2024 Boonerang Music and Arts Festival would take place on June 14 and 15. He stated that staff believed that operations needed to be moved from North Depot to South Depot in an effort to more evenly spread patrons and events out for safety reasons. Director Freed indicated that staff planned to bring alcohol sales in-house since it was becoming a struggle to have so many beer vendors on the street. He stated that he believed it would be smoother, allow for better record keeping, and free up more funds to donate to local non-profits. He further added that staff would work with the state ABC Board on the proper liquor licenses. At the request of Council, Director Freed agreed to come back at a later date with a written report once more data is received and finalized.

CONSIDERATION OF POSSIBLE AMENDMENT TO CHAPTER 50 REGARDING WATER & SEWER EXTENSIONS

Attorney Meade began by stating that she had spoken with Ms. Williamson during the last break regarding her agenda item and that she was aware of what would be said during her presentation. She stated that the ordinance was drafted according to Council's directions in response to requests made by ASU with respect to its wastewater treatment plant and supporters of the Kill-Chill facility, and could be more narrow. Attorney Meade noted that nothing in the proposed ordinance was coming at the behest of a developer. As had been discussed previously, Council could allow the Kill-Chill facility to connect Town water and sewer but remain outside the Town limits, or the County could annex the property into the Town and then the facility would have the right to connect. Several hypothetical situations were discussed, with Attorney Meade asking Council not to rush a decision on this amendment. She stated that if Council did not wish to create bigger exemptions for water/sewer connections for potential development outside the Town limits, she could certainly make the language more narrow. With the proposed language, Ms. Meade indicated that Council would not be required or mandated to approve requests for extensions brought forward but would have the opportunity to grant them if it desired to do so. Councilmember Carter stated that his main concern was affordable housing; whether it was done by creating a new zoning district or whatever needed to be done, he wanted to encourage it. He also was against limiting the project's use to fifteen years as low-income housing as stated in statute. Attorney Meade answered that Council could choose to require a longer time period; fifteen was just the minimum under state law. Councilmember Carter suggested that Council discuss this ordinance at its next meeting with the NC School of Government Development Finance Initiative. Attorney Meade added that the only point of this amendment was to give flexibility in the future for projects that require water and sewer outside of Town limits. Planning Director Shook added that Council had the option of using a planned development process for projects proposed outside the current Town limits. Attorney Meade explained that the planned development process was authorized briefly by the Town in years past and said that it was a way for developers to come to Council for a legislative decision similar to the conditional district process but with more flexibility. She added that when the Town had the planned development process previously, it was used for large acreage and mixed-use development and stated that it would be a great option to consider in the case of affordable housing projects. Councilmember George indicated his belief that the Town could regulate more if properties annexed. Attorney Meade suggested narrowing the language to specifically address the Kill Chill facility and the landfill area. It was the consensus of Council to direct Attorney Meade to bring back a more narrow ordinance and to discuss planned development at a later meeting.

CONSIDERATION OF NEW TOWN CODE CHAPTER 115, STREET VENDING IN DOWNTOWN

Attorney Meade stated that this ordinance was initiated for a number of reasons, including vendors blocking the utility billing drive-through at Town Hall, tables on sidewalks restricting wheelchair mobility, and perceived unfair competition with brick-and-mortar shops when vendors do not pay municipal service district taxes. The proposal was carefully developed by the Downtown Boone Development Association, which also held numerous public meetings on the subject as well as comment sessions. Attorney Meade stated that the proposed location was roomier and would be more of a distinct destination spot than the rock wall near Town Hall currently being used. Councilmember Roseman expressed concern that the vendors might distract from the historic post office and added that she believed the vendor spaces needed visible markers. Attorney Meade responded that the ordinance was written to protect sightliness and that vendor space markings could be addressed by staff. Councilmember Carter indicated his belief that the new vendor area would be well-trafficked. Cultural Resources Director Mark Freed added that the new ordinance would be useful during events to regulate vendors, direct patrons to the proper spot for vendors, and support brick-and-mortar establishments. Attorney Meade noted that some municipalities banned vendors altogether and said she did not believe the proposed ordinance was heavy-handed. Councilmember Carter agreed and stated that the ordinance still encouraged art and opportunity. When asked about time limitations, Attorney Meade responded that none were imposed by the ordinance and there had not been any issues with late-night vending as far as she was aware, but such limitations were within the Town Manager's discretion. Councilmember Nenow was interested in expanding potential vending space during First Fridays, to which Attorney Meade answered that staff could discuss that with the DBDA. She added that the ordinance would come into effect in fifteen days. Councilmember George noted that this ordinance would not affect buskers and/or homeless persons, only vendors. Councilmember Roseman made a motion to approve the ordinance as proposed and that it did not affect buskers or persons facing housing crises. Councilmember George seconded the motion, which carried unanimously.

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Ordinance # _____

AN ORDINANCE TO AMEND THE TOWN OF BOONE
CODE OF ORDINANCES TO ADD A NEW
CHAPTER 115 "STREET VENDORS"

WHEREAS, the Town of Boone is authorized pursuant to N.C.G.S. §160A-178 to by ordinance regulate, restrict or prohibit the business activities of itinerant merchants and peddlers;

WHEREAS, the Boone Town Council wishes to enact such an ordinance upon due consideration and having considered the recommendations of the Downtown Boone Development Association developed following lengthy deliberation and multiple public comment opportunities;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. The Boone Code of Ordinances is hereby revised to add a new chapter 115 as set forth in the attached Exhibit A to this Ordinance, which is incorporated by reference.

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective 15 days following its adoption by Town Council.

Adopted this ____ day of _____, 2023.

ATTEST: _____

Tim Futrelle, Mayor

Town Clerk

EXHIBIT A

Chapter 115. Street Vendors**DEFINITIONS**

For the purposes of this ordinance (“Chapter”), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ITINERANT MERCHANT. – A person, other than a merchant with an established retail store in the county, who transports an inventory of goods to a building, vacant lot, or other location in a county and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

MERCHANDISE – Goods, including fresh cut flowers, balloons, food, and any other wares offered for sale or donations.

PEDDLER. – A person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods.

PERSON. – An individual, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit.

SPECIAL EVENT – A town-sponsored or town-sanctioned market, festival, activity, or similar event.

STREET VENDOR – A person who hawks, peddles, sells or offers food or merchandise, and includes both itinerant merchants and peddlers. Musicians (buskers)/performers are not street vendors within the meaning of this Chapter and are not intended to be regulated under this Chapter.

VENDING STAND - A stand, mobile cart, pushcart, wagon, or vehicle used or intended to be used for displaying, transporting or storing articles offered for sale by a vendor. For purposes of this Chapter, vending stands do not include mobile food units (i.e., “food trucks”) and this Chapter is not intended to apply to or regulate lawfully operating mobile food units.

APPLICABILITY; SPECIAL EVENTS

This Chapter applies only within the area of the downtown Municipal Services District (“MSD”), which is referred to hereinafter as the “downtown area.”

This Chapter is intended to regulate conduct on town-owned public property and town-maintained public rights-of-way in the downtown area, including all streets and sidewalks maintained by the town (and regardless of whether or not such public rights of way are within the boundaries of private parcels). This Chapter is not intended to regulate private property that is not subject to public rights-of-ways, such as private parking lots.

When special events are held in the downtown area, the town manager (or designee) may, in the town manager’s discretion, determine that street vending shall not be allowed under this Chapter but instead will be prohibited or will be allowed only as permitted by the sponsor(s) of the special event. “Special events” for purposes of this provision shall include all town-sponsored parades, Boone Boo, Boonerang, and any other event determined by the town manager to constitute a special event for purposes of this section.

STREET VENDING ALLOWED IN LIMITED LOCATIONS AND ONLY WITH A PERMIT

It shall be unlawful for any person to sell or to offer for sale, any food, beverage or merchandise on foot or from any vending stand on any public right-of-way, public street, public sidewalk or town-owned property within the downtown area unless:

- (a) The person has obtained a valid and unexpired permit; and
- (b) The person vends from a vending stand located at a site approved by the town manager and otherwise complies with all requirements of this Chapter, including such rules and regulations as may be issued by the town manager (or designee) as provided herein.

CERTAIN MERCHANDISE PROHIBITED

Street vendors may not sell the following:

- (A) Vendors may not sell second-hand (used) clothing, personal effects, home furnishings, or similar used merchandise. The intention of this prohibition is to avoid sales in the nature of “flea sales” or “yard sales” of used personal items. It is not the intention of this subsection to prohibit sales of true vintage items, but such items must be at least 10 years old and the vendor must keep upon the vendor’s person (to display if requested) evidence demonstrating that the items are vintage.

- (B) Vendors may not cook food using a heat source (e.g., boil, roast, broil, bake, or fry), at a vending stand. Re-heating pre-cooked food is allowed if otherwise allowed under health department regulations and any other applicable law.

VENDOR SITE LOCATIONS, RULES, AND ASSIGNMENT

- (A) Vending shall only be allowed at sites located on the sidewalk in front of the downtown Post Office.
- (B) The town manager (or designee) shall, in the town manager's discretion, determine the specific vending stand locations and dimensions that will be allowed and any other appropriate rules or limitations that shall govern the usage of such vending sites. In exercising this discretion, the town manager shall see to it that the sidewalks are kept clear for pedestrian use as provided at Chapter 96 of this code, shall protect the planting areas of the Post Office, shall require that vendors provide waste receptacles as necessary for wastes generated by their operations, protect the sightliness of the area, and otherwise exercise the town manager's (or designee's) discretion to protect the public's use and enjoyment of the area. Such rules may include a system for assignment of vending sites (e.g., sign-up and/or lottery) if circumstances (such as excessive competition for sites) warrant. Sites at the post office may be changed or removed from availability in the town manager's discretion, and applicable rules otherwise modified, without advance notice to any permitted vendor.

PERMIT PROCESS.

- (A) A person wishing to offer merchandise for sale pursuant to this Chapter shall apply to the Town Clerk for a permit on such form(s) as may be required by the Town Clerk.
- (B) The permit shall be for a one-year period from the date the permit is issued.
- (C) The permit fee shall initially be \$100.00 per year, but may be changed as provided by the Schedule of Fees approved by Town Council as part of its annual budget approval process. The fee shall be used for Downtown Boone revitalization and programming.
- (D) A person may not be issued a permit unless the person has provided the following, and a permit may be revoked at any time if the person fails to demonstrate upon request by the town manager (or designee) that the person has provided the following information and approvals and that such are up-to-date and current:
- Contact information, including residence address, mailing address, cell phone number, and email address.
 - If applicable, proof of proper registration with the State of North Carolina for collection and remission of sales taxes;
 - If applicable, approval from the North Carolina Department of Agriculture.
 - If applicable, approval from the Watauga County Health Department.

If questioned by the Town, it shall be the responsibility of the applicant to demonstrate if any of the above requirements are not applicable to that person.

Permits issued under this section may be superseded during special events as provided at §115.02(C) herein.

The town manager shall have the authority to deny, suspend or revoke a vendor's permit for any of the following causes:

- Fraud or misrepresentation contained in the application for the permit or, in applying for the permit; failure to provide the information required by this Chapter; or failure to provide any relevant information sought by the permitting official.
 - Fraud or misrepresentation made in the course of carrying on the business of vending or failure to remit required sales taxes.
 - Repeated violation of this Chapter or the rules promulgated by the town manager (or designee) hereunder.
 - Conviction of the permittee for a felony or misdemeanor related to the vendor's business authorized by the permit.
- (E) If a permit is suspended or revoked, the permittee shall have the right to appeal the suspension or revocation to the town manager in writing within ten days of the suspension or revocation. The decision of the town manager shall be final.
- (F) If a vendor has a permit revoked, the town manager (or designee) may reject any new application for a permit under this Chapter for a 12-month period from the date of revocation.

PERMITS MUST BE VISIBLE.

Every vendor operating pursuant to a permit issued under this Chapter shall have such permit visible on the vendor's person or vending site at all times.

PROHIBITED CONDUCT

It shall be unlawful for a street vendor to:

- (A) Violate any federal, state, county or city law or regulation that pertains to food, beverages, or the selling thereof.

Fail to permit any lawfully requested inspection by health officials or to comply with any lawful request of a police officer.

Fail to carry and display at all times of operation the permit issued under this chapter.

Have a vending stand that is not in compliance with this Chapter or any rules established by the town manager (or designee) hereunder.

Leave the vendor's site without first picking up, removing and disposing of all trash or refuse remaining from the activities of the vendor or the vendor's customers.

Sound or permit the sounding of any device which produces a loud and raucous noise or engage in any hawking or harassment for the purpose of attracting the attention of the public to the vending stand.

Have any advertising other than the posting of prices, the names of goods, and the name and contact information of the vendor.

Solicit or conduct business with persons in motor vehicles.

Use a tent or canopy. Only properly anchored single-pole umbrellas may be used, and any such umbrella must not interfere with pedestrian traffic or in any other way pose any threat to public safety.

ENFORCEMENT

- (A) The provisions of Town Code § 10.99 apply to violations of this chapter except as specifically provided otherwise in this section.

An initial violation of this Chapter shall subject the responsible person to a civil penalty in the amount of \$25.00. In the event there is more than one violation within any one-year period by the person, then the civil penalty shall be increased for each additional violation over such period, as follows.

1. Second offense within one year: \$50.
2. Third offense within one year: \$100.
3. Fourth and any subsequent offense within one year: \$200.

Once the one-year period has run from the first violation, the next violation shall be considered to be a first violation for the purposes of establishing a new one-year period.

A person acting in violation of this Chapter may be ordered by a Town police officer to cease the person's activities and vacate the vending site. Such person must obey the order of the police officer or is subject to separate and distinct citation for violation of this Chapter and/or charges for resisting the lawful orders of a police officer.

APPOINTMENT TO BOARD OF ADJUSTMENT

Councilmember Roseman nominated Benjamin Ray to be reappointed to the Board of Adjustment to a regular position to expire on June 30, 2025, and stated that she did not agree with all the comments he made on his application. Councilmember George stated that he would like to see more alignment with the Comprehensive Plan, but took into account that it would soon be updated. Hearing no further nominations, Mayor Pro-Tem Tugman called for a vote:

VOTE:	Aye:	All
	Nay:	None

Mr. Ray's term will expire on June 30, 2025.

APPOINTMENT TO SUSTAINABILITY COMMITTEE

Councilmember George asked about the status of a student member who had not attended a Sustainability Committee meeting in a while. Sustainability Coordinator George Santucci stated that he would write a letter to the member relieving him of his duties on the committee due to a lack of attendance. Councilmember George nominated Evan Flaherty to the remaining student seat on the Sustainability Committee. Hearing no further nominations, Mayor Pro-Tem Tugman called for a vote.

VOTE:	Aye:	All
	Nay:	None

Evan's term will expire on June 30, 2024.

PLANNING MATTERS

CONSIDERATION OF WVS INVESTMENTS LLC VOLUNTARY ANNEXATION PETITION (TBD FIELDSTONE DR.)

It was the consensus of Council to move this item up on the agenda. Director Shook presented the annexation materials for WVS, LLC at TBD Fieldstone Drive. Councilmember Roseman made a motion to approve the items as presented and to move forward in the annexation process since a portion of both properties are in the Town limits already, and to schedule the public hearing for the October meeting. Councilmember George seconded the motion, which carried unanimously. Mayor Pro-Tem Tugman asked whether the other houses below the proposed properties were already serviced by Town utilities. Director Shook stated that she had confirmed with Public Utilities that they were, and though there may be some work to be done, the property owner has been made aware.

A break was declared at 2:48 p.m. Council reconvened at 3:12 p.m.

WORK SESSION

Sustainability Coordinator Santucci addressed letters from citizens that Council had received regarding the ban of single-use plastic and stated that he was unsure why people still thought the Town was able to initiate such a ban. It was his opinion that the Town needed to show the public things that it was doing that were proactive about addressing issues. Coordinator Santucci stated that he felt that by working with different entities in the area, they could come up with a campaign to let the public know about the Town's efforts. He also suggested an educational campaign to let them know ways they could mitigate single plastic use as well. Councilmember Carter stated that he would share two articles that indicated legislature did not allow municipalities to ban single-use plastics. Coordinator Santucci stated that it was his opinion that the current political environment would allow for a local bill to ban plastics. Councilmember George suggested a ban on a municipal level and stated that he felt this must be done before it could be done anywhere else. He added that the Town of Woodfin recently adopted an ordinance to trigger a ban once Buncombe County banned single-use plastics. Mayor Pro-Tem Tugman suggested that members submit ideas of ways the Town could eliminate single use plastics. Some of the ideas given were: dog waste bags, vending machines, and leaf pick-up bags. Councilmember Nenow stated that Chapel Hill had recently banned the use of single-use plastics within its municipality, to which Coordinator Santucci indicated he would contact them for additional information. He added that he would solicit ideas from Town departments as well.

Director Shook announced a meeting tomorrow with the firm regarding the Comprehensive Plan update, and stated that staff should be receiving an implementation plan soon. She added that staff planned to use stakeholders to get the message out about the update. Attorney Meade expressed hope that the firm could visit Boone before a scope was developed with respect to small plan development.

Councilmember Carter read an email received from Susan McCracken regarding what she perceived to be the overpopulation of deer in her neighborhood. Coordinator Santucci suggested that staff reach out to the Wildlife Resource Agency for guidance. Attorney Meade indicated her opinion that there was nothing against lawfully bow hunting in Town currently. She stated that she would be surprised if Town Council had the authority to restrict it due to state law but would have to research the matter further. Manager Davis stated that she had recently spoken with a biologist at the Wildlife Resource Agency about the issue and that they stated there was no prohibition against bow hunting and suggested that the Town promote the fact that it is allowed during bow hunting season. Councilmember George suggested a resolution be prepared to help publicize bow hunting. Councilmember Carter indicated that he would contact the local news publications regarding the matter. Attorney Meade suggested that if a water bill insert was prepared, that a synopsis of what citizens were and were not allowed to do on their own property be included.

Manager Davis stated that she estimated that a new proposed municipal service district along Blowing Rock Road from the old Boonies to the Walgreens property would generate approximately \$27,430 per \$.01. She noted that the Downtown MSD was taxed at a rate of \$.15, but cautioned that the Town would be required to give up a share of sales tax funds to the district. Manager Davis noted that \$75,000 was given to the Downtown MSD last year. She

added that she would work with Public Works Director Todd Moody regarding transfers to the general fund and noted that the creation of this district was required to coincide with the fiscal year. It was the consensus of Council to move forward with this project.

Conversation turned back to deer, with Attorney Meade indicating that state law provided for an urban archery season but that the Town of Boone would have to opt in per Wildlife Resource Agency regulations. Manager Davis stated that the biologist she spoke with recently indicated that it would be better for the Town to simply promote bow hunting as opposed to opting into the program. Attorney Meade stated that she would research the matter further and report back to Council.

Mayor Pro-Tem Tugman expressed concern with the intent of the recently adopted resolution supporting a mountain bike park with hiking opportunities at the Town-owned Winkler's Creek Reservoir. She took issue with what she perceived as a lack of support in the approved resolution for family recreation. She asked that Council and staff work to communicate the Council's true desires with the Boone Area Cyclists now that there were not so many people in the room and there has been a chance to look into the issue further. Mayor Pro-Tem Tugman found the trail levels described at the May meeting to be misleading and intimidating and suggested a project more like Trout Lake with bike trails instead of Rocky Knob. It was the consensus of Council to direct staff to invite Eric Woolridge of Destination by Design and Boone Area Cyclists to the August meeting to have additional conversation due to the emergency of community concerns regarding the project.

Councilmember George proposed that the alleyway next to Alumni Hall be named after former Councilmember Dana Folk. He stated that he had cleared it with Mr. Folk, GIS, and HPC Chair Plaag indicated that they would be willing to assist with the wording of a plaque. Councilmember George stated that he only needed Council approval before communicating the potential project with the Junaluska Community. Councilmember Roseman communicated her support and suggested a mural be painted on the side of one of the buildings if permission could be obtained. Councilmember George indicated that he would like the alleyway to be called Dana Folk Alleyway, Dana Folk Way, or Dana Folk Pedestrian Way. Public Works Director Todd Moody raised concern as to where the potential sign would be hung since the buildings on either side were private property. Councilmember George suggested that a sign be placed in a bollard in the center of the alleyway but believed that this is part of what would be discussed during the HPC meeting. It was the consensus of Council for Councilmember George to move forward in his discussion with the Junaluska Community and bring back to Council at a later date.

ADJOURNMENT

Upon a motion by Councilmember George, seconded by Councilmember Carter, Council voted at 5:10 p.m. to adjourn the meeting.

Nicole Harmon, Town Clerk

Tim Futrelle, Mayor